

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1501
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

REPORT OF SETTLEMENT

Please print or type required information

☒ Original Filing ☐ Supplemental Filing ☐ Corrected Filing

PARTIES TO THE ACTION	PLAINTIFF(S) Shefa LMV Inc.				
	DEFENDANT(S) INVOLVED IN SETTLEMENT Great Neck Saw Manufacturing, Inc. erroneously sued as Great Neck Saw Manufacturers, Inc.				
CASE INFO	COURT DOCKET NUMBER BC664409		COURT NAME Los Angeles County Superior Court		
	SHORT CASE NAME Shefa v. Great Neck				
REPORT INFO	INJUNCTIVE RELIEF Reformulation and/or Warning label				
	PAYMENT: CIVIL PENALTY \$4,000		PAYMENT: ATTORNEYS FEES \$18,000		For Internal Use Only
			PAYMENT: OTHER 0.00		
	WILL SETTLEMENT BE SUBMITTED TO COURT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, AFTER ENTRY OF JUDGMENT BY COURT, REPORT OF ENTRY OF JUDGMENT MUST BE SUBMITTED TO ATTORNEY GENERAL		DATE SETTLEMENT SIGNED 7 / 17 / 2017	
	COPY OF SETTLEMENT MUST BE ATTACHED				
FILER INFO	NAME OF CONTACT Daniel N. Greenbaum				
	ORGANIZATION Law Office of Daniel Greenbaum			TELEPHONE NUMBER (818) 809-2199	
	ADDRESS 7120 Hayvenhurst Ave., Suite 320			FAX NUMBER (424) 243-7698	
	CITY Van Nuys	STATE CA	ZIP 91406	E-MAIL ADDRESS dgreenbaum@greenbaumlawfirm.com	

FILING INSTRUCTIONS: This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the settlement to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

LAW OFFICE OF DANIEL N. GREENBAUM
Daniel N. Greenbaum, Esq. (SBN 268104)
The Hathaway Building
7120 Hayvenhurst Avenue, Suite 320
Van Nuys, CA 91406
Telephone: (818) 809-2199
Facsimile: (424) 243-7689
Email: dgreenbaum@greenbaumlawfirm.com

Attorney for Plaintiff SHEFA LMV, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

SHEFA LMV, INC.,)	Case No. BC664409
Plaintiff,)	
vs.)	[PROPOSED] CONSENT JUDGMENT
GREAT NECK SAW MANUFACTURERS,)	AS TO GREAT NECK SAW
INC.; and DOES 1 through 100, Inclusive,)	MANUFACTURING, INC.
Defendants.)	erroneously sued as GREAT NECK SAW
)	MANUFACTURERS, INC.
)	
)	
)	Action Filed: June 9, 2017
)	

1 **1. INTRODUCTION**

2 **1.1 Parties**

3 This Consent Judgment is entered into by and between plaintiff, Shefa LMV, Inc.
4 (“Shefa”) on the one hand, and Great Neck Saw Manufacturing, Inc. erroneously sued as Great
5 Neck Saw Manufacturers, Inc. (“Defendant”) on the other hand, with Shefa and Defendant
6 individually referred to as a “Party” and collectively as the “Parties.”

7 **1.2 Plaintiff**

8 Shefa is a public benefit, non-profit corporation formed pursuant to the laws of California
9 that seeks to promote awareness of exposures to toxic chemicals and to improve human health by
10 reducing or eliminating hazardous substances contained in consumer products.

11 **1.3 Defendant**

12 Defendant employs ten or more persons and is a person in the course of doing business for
13 purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and Safety
14 Code Section 25249.6 *et seq.* (“Proposition 65”).

15 **1.4 General Allegations**

16 Shefa alleges that Defendant manufactures, imports, sells, or distributes for sale to
17 consumers in the State of California plastic work lights containing Di(2-ethylhexyl)phthalate
18 (“DEHP”) without first providing the clear and reasonable exposure warning required by
19 Proposition 65. DEHP is listed pursuant to Proposition 65 as a chemical that is known to the
20 State of California to cause cancer and birth defects and other reproductive harm.

21 **1.5 Product Description**

22 The products covered by this Consent Judgment are plastic work lights containing DEHP
23 that are manufactured, sold, and/or distributed for authorized sale to consumers in California by
24 Defendant, including, but not limited to, the Great Lite, UPC # 076812327567 (“Products”).

25 **1.6 Notice of Violation**

26 On or about March 2, 2017, Shefa served Defendant and certain requisite public
27 enforcement agencies with a “60-Day Notice of Violation” (“Notice”), a document that informed
28

1 the recipients of Shefa’s allegation that Defendant violated Proposition 65 by failing to warn its
2 customers and consumers in California that the Products expose users to DEHP.

3 **1.7 Complaint**

4 After the 60-day notice period was exhausted without an authorized public prosecutor of
5 Proposition 65 having asserted such claims, Shefa filed the instant action against Defendant
6 (“Complaint”) for the alleged violations of Health & Safety Code § 25249.6 that are the subjects
7 of the Notice.

8 **1.8 No Admission**

9 Defendant denies the material, factual, and legal allegations contained in the Notice and
10 maintains that all of the products it has manufactured, sold, or distributed for authorized sale in
11 California, including the Products, have been, and are, in compliance with all laws, including
12 Proposition 65. Nothing in this Consent Judgment shall be construed as an admission by
13 Defendant of any fact, finding, conclusion of law, issue of law, or violation of law; nor shall
14 compliance with this Consent Judgment constitute or be construed as an admission by Defendant
15 of any fact, finding, conclusion of law, issue of law, or violation of law, the same being
16 specifically denied by Defendant. This section shall not, however, diminish or otherwise affect
17 Defendant’s obligations, responsibilities, and duties under this Consent Judgment.

18 **1.9 Consent to Jurisdiction**

19 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
20 jurisdiction over Defendant as to the allegations in the Complaint, that venue is proper in Los
21 Angeles County, and that this Court has jurisdiction to enter, enforce, and modify the provisions
22 of this Consent Judgment.

23 **1.10 Effective Date**

24 For purposes of this Consent Judgment, the term “Effective Date” shall mean the date on
25 which Shefa serves notice on the Defendant and the Office of the California Attorney General
26 that the Court has approved and entered this Consent Judgment.

1 **2. INJUNCTIVE RELIEF: REFORMULATION AND WARNINGS**

2 By no later than the Compliance Date¹, and continuing thereafter, Defendant shall
3 manufacture, import, or otherwise source for authorized sale in California only Reformulated
4 Products, as defined pursuant to Section 2.1 below, unless such Products are labeled with a clear
5 and reasonable Proposition 65 warning pursuant to Section 2.2 below. Products acquired by
6 Defendant prior to the Compliance Date are exempted from the foregoing obligation and may be
7 offered for sale in California and sold through as previously packaged and received by Defendant.

8 **2.1 Reformulation Standard**

9 For purposes of this Consent Judgment, Reformulated Products are defined as Products
10 that contain no more than 1,000 parts per million (0.1%) each of any of the following chemicals:
11 DEHP, Di-isodecyl phthalate (DIDP); Diisononyl Phthalate (DINP); Butyl benzyl phthalate
12 (BBP), Di-n-hexyl Phthalate (DnHP) and Di-n-butyl Phthalate (DBP) (“Listed Phthalates”). For
13 purposes of determining compliance with this Consent Judgment, the content of Listed Phthalates
14 shall be analyzed pursuant to EPA testing methodologies 3580A and 8270C or equivalent
15 methodologies utilized by state or federal agencies for the purpose of determining Listed
16 Phthalate content in a solid substance.

17 **2.2 Product Warnings**

18 For all Products that contain a Listed Phthalate in an amount exceeding the Reformulation
19 Standard set forth in Section 2.1 above, and which are manufactured, sold, or packaged for
20 shipment to California following the Compliance Date, Defendant shall provide the following
21 Proposition 65 warning:

22 **WARNING:** This product contains chemicals known to the State of California to
23 cause cancer and birth defects or other reproductive harm.²

24 or

25
26 _____
27 ¹ Given the design, manufacturing, and shipping cycles associated with shop lights, to allow for the orderly
implementation of the injunctive relief requirements set forth in this Consent Judgment, the “Compliance Date” shall
mean October 1, 2017, or six (6) months following the Effective Date, whichever arises earlier.

28 ² Where only one Listed Phthalate exceeds the Reformulation Standard, Defendant may elect to have this warning
statement refer to the word “chemical” in the singular.

1 **WARNING:** This product contains phthalate chemicals known to the State of
2 California to cause cancer and birth defects or other reproductive harm.

3 or



5 **WARNING: Cancer and Reproductive Harm - www.P65Warnings.ca.gov.**

6 or



8 **WARNING: This product can expose you to chemicals including DEHP,**
9 **which are known to the State of California to cause cancer and birth defects or other**
10 **reproductive harm. For more information go to www.P65Warnings.ca.gov.**

11 The above warning statement shall be placed or affixed on the Product or its package so as to be
12 able to be read and understood by an ordinary individual prior to purchase or use or it may be
13 displayed at the point of purchase prior to final consummation of the sales transaction by which
14 the product is acquired by someone in California.

15 **3. STATUTORY PENALTY PAYMENTS**

16 **3.1 Civil Penalty**

17 Defendant shall pay \$4,000.00 in civil penalties pursuant to California Health & Safety
18 Code § 25249.7(b) in accordance with this Section. This penalty payment shall be allocated in
19 accordance with California Health & Safety Code § 25249.12(c)(l) and (d), with 75% of the
20 funds remitted to the California Office of Environmental Health Hazard Assessment
21 (“OEHHA”) and the remaining 25% of the penalty remitted to Shefa. More specifically, within
22 fifteen (15) business days of the Effective Date, Defendant shall issue two separate checks for
23 the civil penalty payment to (a) “OEHHA” in the amount of \$3,000.00 and with the memo line
24 on the check indicating “Prop 65 Penalties—Shefa v. Great Neck Saw” (Defendant may
25 reference OEHHA’s Tax Identification Number of 68-0284486 for this check); and (b) “Law
26 Office of Daniel N. Greenbaum in Trust for Shefa” in the amount of \$1,000.00 (for which Shefa
27 shall provide Defendant a completed IRS Form W-9 with a tax identification number within two
28

1 days following the Effective Date, if not beforehand). These checks shall be delivered to the
2 addresses listed in Section 3.2 below.

3 **3.2 Payment Delivery**

4 (a) Payment to Shefa shall be delivered to the following address:

5 Daniel N. Greenbaum, Esq.
6 Law Office of Daniel N. Greenbaum
7 The Hathaway Building
8 7120 Hayvenhurst Avenue, Suite 320
9 Van Nuys, CA 91406

10 (b) Payment to OEHHA shall be delivered to one of the following addresses:

11 For United States Postal Service Delivery:

12 Mike Gyurics
13 Fiscal Operations Branch Chief
14 Office of Environmental Health Hazard Assessment
15 P.O. Box 4010
16 Sacramento, CA 95812-4010

17 Or

18 For Non-United States Postal Service Delivery:

19 Mike Gyurics
20 Fiscal Operations Branch Chief
21 Office of Environmental Health Hazard Assessment
22 1001 I Street
23 Sacramento, CA 95814

24 **4. REIMBURSEMENT OF FEES AND COSTS**

25 Defendant shall pay Shefa \$18,000.00 for fees and costs incurred as a result of
26 investigating, bringing this matter to Defendant's attention, and negotiating a settlement in the
27 public interest. Defendant shall make its checks payable to "Law Office of Daniel N.
28 Greenbaum" and shall deliver payment to the address listed in Section 3(a) above within fifteen
(15) business days of the Effective Date. To facilitate timely payment, Shefa shall provide
Defendant with a completed IRS Form W-9 with the Law Office of Daniel N. Greenbaum's tax
identification number within two (2) days following the Effective Date if not beforehand.

1 **5. CLAIMS COVERED AND RELEASED**

2 **5.1 Shefa's Public Release of Proposition 65 Claims**

3 Shefa, acting on its own behalf and in the public interest, releases Defendant, and its
4 affiliated entities, directors, officers, employees, and attorneys, as well as each entity from whom
5 they acquire the Products or the Products' components, and each entity to whom they directly or
6 indirectly distribute or sell Products, including, but not limited to, distributors, wholesalers,
7 dealers, customers, retailers (including, but not limited to, The Pep Boys and affiliated entities),
8 franchisees, cooperative members, licensors, and licensees, from all claims for violations of
9 Proposition 65 based on exposures to DEHP from Products manufactured, sold, or packaged by
10 Defendant prior to the Effective Date.³

11 **5.2 Shefa's Private Releases of Claims**

12 Shefa, *in its individual capacity only*, also provides a release herein which shall be
13 effective as a full and final accord and satisfaction, as a bar to all actions, causes of action,
14 obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of
15 any nature, character, or kind, whether known or unknown, suspected or unsuspected, arising out
16 of alleged or actual exposures to any of the chemicals listed under Proposition 65 (including but
17 not limited to the Listed Phthalates) in the Products. In this regard, Shefa hereby acknowledges
18 that it is familiar with Section 1542 of the California Civil Code, which provides as follows:

19 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
20 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE
21 TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST
22 HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

23 **5.3 Defendant's Release of Shefa**

24 Defendant, on its own behalf and on behalf of its past and current agents, representatives,
25 attorneys, successors, and assignees, hereby waives any and all claims that it may have against
26 Shefa and its attorneys and other representatives for any and all actions taken or statements made

27 _____
28 ³ Following the Effective Date, compliance with the terms of this Consent Judgment shall be deemed compliance
with Proposition 65 with respect to exposures to DEHP from the Products.

(or those that could have been taken or made) by Shefa and its attorneys and other representatives, whether in the course of investigating claims, otherwise seeking to enforce Proposition 65 against Defendant in this matter, or with respect to the Products.

6. COURT APPROVAL

This Consent Judgment is not effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the Court within one (1) year after it has been fully executed by all Parties, unless the Parties mutually agree to extend that time period due to what they mutually agree are reasonably unforeseeable circumstances.

7. SEVERABILITY

If, subsequent to the execution of this Consent Judgment, any provision of this Consent Judgment is held by a court to be unenforceable, the validity of the remaining provisions shall not be adversely affected.

8. GOVERNING LAW

The terms of this Consent Judgment shall be governed by the laws of the State of California and apply within the State of California. In the event that Proposition 65 is repealed or is otherwise rendered inapplicable by reason of law generally, or as to the Products, then Defendant may provide written notice to Shefa of any asserted change in the law and have no further obligations pursuant to this Consent Judgment, with respect to, and to the extent that, the Products are so affected.

9. NOTICES

Unless specified herein, all correspondence and notices required to be provided pursuant to this Settlement Agreement shall be in writing and personally delivered or sent by: (i) first-class (registered or certified mail) return receipt requested; or (ii) overnight or two-day courier on any Party by the other Party to the following addresses:

For Defendant:

Dan Jacoff
DJacoff@greatnecksaw.com
Great Neck Saw Manufacturing, Inc.
165 E. 2nd St
Mineola NY 11501

1 *With a copy to:*

2 Robert Falk
3 RFalk@mofo.com
4 Morrison & Foerster LLP
 425 Market Street, 32nd Floor
 San Francisco, CA 94105

5 For Shefa:

6 Daniel N. Greenbaum, Esq.
7 Law Office of Daniel N. Greenbaum
8 The Hathaway Building
 7120 Hayvenhurst Avenue, Suite 320
 Van Nuys, CA 91406

9
10 Any Party may, from time to time, specify in writing to the other Party a change of address to
11 which all notices and other communications shall be sent.

12 **10. COUNTERPARTS; FACSIMILE SIGNATURES**

13 This Consent Judgment may be executed in counterparts and by facsimile or portable
14 document format (PDF) signature, each of which shall be deemed an original, and all of which,
15 when taken together, shall constitute one and the same document.

16 **11. POST EXECUTION ACTIVITIES**

17 Shefa agrees to comply with the reporting form requirements referenced in Health &
18 Safety Code § 25249.7(f). The Parties further acknowledge that, pursuant to Health & Safety
19 Code § 25249.7(f), a noticed motion is required to obtain judicial approval of the settlement
20 manifested in this Consent Judgment. In furtherance of obtaining such approval, Shefa shall file
21 and serve a noticed motion for approval of this Consent Judgment within sixty (60) days of its
22 execution by all Parties and assure that the Office of the California Attorney General is served
23 with said motion and all supporting papers at least forty-five (45) days prior to the scheduled
24 hearing thereon. Defendant agrees to support the entry of this Consent Judgment once such
25 motion has been filed.

26 **12. ENFORCEMENT**

27 The Court shall retain jurisdiction to oversee, enforce, and/or modify the terms of this
28 Consent Judgment. Any Party may, after meeting and conferring, by motion or application for an

1 order to show cause before this Court, enforce the terms and conditions contained in this Consent
2 Judgment. However, before filing such a motion or an application for an order to show cause,
3 Shefa shall provide Defendant with 30 (thirty) days written notice of any alleged violations of the
4 terms of Injunctive Relief contained in Section 2 herein. As long as Defendant cures any such
5 alleged violations within 30 (thirty) days of receipt of the written notice by ceasing the sale of the
6 Covered Product in California until such time as warnings are provided for it pursuant to Section
7 2.2 above or testing reveals that the reformulation standard has been met for it pursuant to Section
8 2.1 above, then there shall be deemed no good cause for enforcement or actionable violation.

9 **13. INTEGRATION**

10 This Consent Judgment contains the sole and entire agreement of the Parties. Any and all
11 prior negotiations and understandings related hereto shall be deemed to have been merged within
12 it. No representations or terms of agreement other than those contained herein exist or have been
13 made by any Party with respect to the other Party or the subject matter hereof.

14 **14. MODIFICATION**

15 This Consent Judgment may be modified only by: (i) a written agreement of the Parties
16 and upon entry, following at least twenty-one (21) days' notice to the Office of the Attorney
17 General, of a modified consent judgment by the Court thereon; or (ii) upon a successful motion or
18 application of any Party, which shall also be served on the Office of the California Attorney
19 General with at least twenty-one (21) days' notice, and the entry of a modified consent judgment
20 by the Court. Any Party seeking to modify this Consent Judgment shall attempt in good faith to
21 meet and confer with all affected Parties prior to filing a motion to modify the Consent Judgment.

22 ///

1 **15. AUTHORIZATION**

2 The undersigned are authorized to execute this Consent Judgment on behalf of their
3 respective Parties and have read, understood and agreed to all of the terms and conditions of this
4 Consent Judgment.

5
6 **AGREED TO:**

7 Date: 7/17/2017

8 By: 
9 Shefa LMV, Inc.

AGREED TO:

Date: July 17, 2017

By: 
Dan Jacoff
Great Neck Saw Manufacturing, Inc.

1 **ORDER AND JUDGMENT**

2 Please note that on _____, 2017 at _____, Plaintiff Shefa LMV Inc.'s ("Plaintiff")
3 Motion for Court Approval of Settlement Agreement and Entry of Consent Judgment as to
4 Defendant Great Neck Saw Manufacturing, Inc. erroneously sued as Great Neck Saw
5 Manufacturers, Inc., came on for hearing before this Court in Department 62, the Honorable
6 Michael L. Stern presiding. Counsel for Plaintiff did [not] appear; counsel for Defendant did
7 [not] appear.

8 After full consideration of the points and authorities and related pleadings submitted, the
9 Court GRANTED Plaintiff's Motion pursuant to and in accordance with Health & Safety Code
10 §25249.7(f)(4). The Court reviewed the above Settlement Agreement and makes the following
11 findings pursuant to Health & Safety Code § 25249.7(f)(4):

- 12 a. The injunctive relief required by the Settlement Agreement complies with Health &
13 Safety Code § 25249.7;
14 b. The reimbursement of fees and costs to be paid pursuant to the Settlement Agreement
15 is reasonable under California law; and
16 c. The civil penalty amount to be paid pursuant to Settlement Agreement is reasonable.

17 The Settlement Agreement is hereby approved, and the clerk is directed to enter judgment
18 in accordance with the terms of the Settlement Agreement above.

19
20 Dated: _____

21
22 _____
23 Judge of the Superior Court
24
25
26
27
28